

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METRO FUEL LLC, a Delaware limited
liability company,

No. C07-6067 JSW

Plaintiff,

vs.

CITY OF SAN FRANCISCO, a municipal corporation,
COUNTY OF SAN FRANCISCO, a subdivision of the
State of California, CITY AND COUNTY OF SAN
FRANCISCO, a chartered California city and county.

Defendants.

DECLARATION OF DENHARDS MARKET

ANTON HALTEH declares under penalty of perjury, pursuant to 28 U.S.C. §
1746, that the following is true and correct:

1. I submit this declaration in support of the motion by Plaintiff Metro Fuel LLC for a preliminary injunction in this case.
2. I am the Trustee of the **ANTON & NIMAT HALTEH FAMILY TRUST**, the entity that owns a market located at 701 10th Avenue in San Francisco. Pursuant to a lease agreement between Metro Fuel and Denhard's Market, Metro Fuel has placed and operates two panel signs on this property.
3. On or about February 13, 2008, the City of San Francisco Planning Department issued a violation to the **ANTON & NIMAT HALTEH FAMILY TRUST** alleging that Metro Fuel's panel signs are illegal and purportedly imposing a fine of \$100.00 per day per panel sign accruing as of the 46th day after the date of the Notice of Violation as stated above. A

true and correct copy of this notice of violation is attached to this declaration as Exhibit A. On or about the second week of July, 2008 my market was visited by a representative of the City of San Francisco who stated that Fuel Outdoor would not win this lawsuit and that the City would never issue a permit for this location, therefore I should remove the sign so as not to incur any more fines on my property which could ultimately result in a lien on my property.

4. I notified Metro Fuel of this notice of violation and was informed that Metro Fuel had filed this lawsuit in federal court challenging the constitutionality of the advertising sign restrictions at issue. I informed Metro Fuel that I am very concerned about the notice of violation and the steep fines that the City claims are accruing. Metro Fuel explained that there would be a court appearance in the federal court action on July 11, 2008, and that Metro Fuel would be asking the Court to issue an injunction barring the City from acting on the notice of violation during the pendency of the lawsuit.

5. I informed Metro Fuel that if this issue is not resolved shortly, I will have no choice but to remove the panel signs from my property as we cannot afford to pay the outstanding violations which have accrued thus far. The total amount is approximately \$19,800 and accruing on a daily basis. I understand that there is strong legal precedent supporting Metro Fuel's constitutional claim, but I cannot risk the possibility that the City's notice of violation will be upheld and that the fine of \$19,800.00 will later be enforced. Again we do not have the financial capability to pay this fine and DENHARD'S MARKET is our business and sole source of income and how we support our family.

Unless the Court intervenes soon, I will have no choice but to remove the panel signs.

Dated: July 15, 2008
San Francisco, California

Anna Helter
DENHARDS MARKET

7-15-08

Exhibit A



FROM ANTON HALTEH
DENHARD'S MKT
TC 415-751-3070
Clerk 415-305-0717
SAN FRANCISCO
PLANNING DEPARTMENT

Notice of Violation

General Advertising Sign

Date: February 13, 2008
Case No.: 5925
Site Address: 701 10th AVENUE
Sign ID: ORIG1190 (6x4 north-facing wall sign)
KAB6 (6x4 north-facing wall sign)
Zoning: NC-1 (Neighborhood Commercial Cluster)
Block/Lot: 1653/001
Staff Contact: Jonathan Purvis - (415) 558-6354
Jonathan.purvis@sfgov.org

1650 Mission
Suite 400
San Francisco
CA 94103-247

Reception:
415.558.631

Fax:
415.558.641

Planning
Information:
415.558.63

Property Owner: Anton & Nimat Halteh, Family Trust
Halteh, Anton & Nimat
880 34th Avenue
San Francisco, CA 94121
Sign Company: Unknown

The Planning Department has recently inspected the above-referenced property and has determined that one or more violations of the Planning Code exist on the site with respect to the general advertising signs referenced above. The exact nature of the violations is detailed below:

DESCRIPTION OF VIOLATION

There is no record of a building permit being issued for the above-referenced general advertising signs. This is a violation of Planning Code Section 604. You must address this notice by providing evidence of an approved permit to install the signs or by applying for a building permit to remove the signs.

Timeline to respond.

Under Section 610 of the Planning Code, the responsible party has forty-five (45) days from the date post-marked on this notice or date of hand-delivery to file an application for a permit to remove the signs or request reconsideration of this Notice of Violation before an Administrative Law Judge.

Penalties

Failure to act on this Notice of Violation within 45 days from the date of this letter will result in a referral to the City Attorney for further action, including penalties, which will accrue beginning on the 46th day at a rate that is based on the size of the sign. For the subject signs, at 24 square feet, the penalty is \$100 per day per sign, for a total of \$200 per day. Furthermore, Section 176(c)1 of the Planning Code provides for civil penalties in addition to those authorized in Section 610, of not less than \$200 for each day a violation is committed or allowed to continue. If the above violation involves Section 604.1 of the Planning Code, an additional \$1,000 a day may be imposed by the Planning Director.

Notice of Violation

Case: 5925
701 10th Avenue

Building permit to remove or correct violation.

You have thirty (30) days from the filing of the building permit to either (1) obtain a Final Inspection Approval or Certificate of Completion from the Department of Building Inspection (DBI); or remove all copy from the signs until such approval from DBI is obtained. If the required approvals have not been obtained within this time period, penalties will accrue at the above referenced amount of \$200 per day.

To avoid penalties, we strongly suggest that you send a photo (preferably via email) to the staff person shown at the top of this notice to confirm when the violation has been abated.

REQUEST FOR RECONSIDERATION HEARING

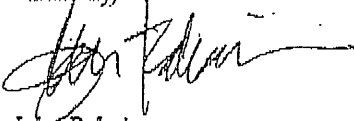
Written request for hearing and fees.

If you seek reconsideration of this Notice of Violation, you must complete a Request for Reconsideration application, which is available online at www.sfplanning.org. The request must include evidence that demonstrates why this Notice of Violation was issued in error or why the administrative penalties assessed were in error. You must enclose a check for \$3,400 payable to the Planning Department for the initial hearing fee.

Other applications under Planning Department consideration.

We want to assist you in ensuring the property is in full compliance with the Planning Code and that no violations are pending. The Planning Department requires that pending violations be resolved prior to the processing and approving of any new building permits or other applications. Therefore, any applications under consideration by the Planning Department for the subject site will be placed on hold until further notice.

Sincerely,



John Rahaim
Director of Planning